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REVIEW OF THE IMPLEMENTATION OF THE RECOMMENDATIONS AND DECISIONS ADOPTED BY THE GENERAL ASSEMBLY AT ITS TENTH SPECIAL SESSION: TRANSFER OF HIGH TECHNOLOGY WITH MILITARY APPLICATIONS

Report of the Secretary-General

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I. INTRODUCTION

1. On 6 December 1991, the General Assembly adopted resolution 46/38 D, entitled "The transfer of high technology with military applications", the operative part of which reads, inter alia, as follows:

> "The General Assembly,
>
> "...
>
> "2. Invites all Member States to make available to the Secretary-General pertinent information and comments on this subject, taking into account arrangements, laws and regulations related to international transfers of high technology with military applications, as appropriate;
>
> "3. Requests the Secretary-General to submit a report to the General Assembly at its forty-seventh session, taking into account the information and comments transmitted by Member States."

2. Pursuant to paragraphs 2 and 3 of the resolution, the Secretary-General, in a note verbale dated 26 February 1992, requested all Member States to make available to him pertinent information and comments on this subject by 15 April 1992. Accordingly, the Secretary-General submits herewith the information or comments received thus far, namely, from Brazil, Canada, Denmark, 1/ France, Germany, Lithuania, Norway, Panama, Spain and the United kingdom of Great Britain and Northern Ireland. Other replies on this item will be issued as addenda to this report.

1/ In a note verbale addressed to the Secretary-General, dated 18 June 1992, Denmark provided information regarding the subjects of international arms transfers, transparency in armaments and transfer of high technology with military applications. That information is contained in the report of the Secretary-General on international arms transfers (A/47/314), under item 61 (i) of the provisional agenda.

II. REPLIES RECEIVED FROM GOVERNMENTS

BRAZIL

[Original: English]

[20 April 1992]

Information and comments on the subject of the transfer of high technology with military applications

A. General information on arrangements, laws and regulations related to the international transfer of high technology with military applications

1. Among the fundamental principles enshrined in the Constitution that guide the action of Brazil in its international relations are the upholding of peace and the promotion of cooperation among all peoples for the progress of mankind. Brazil's peaceful vocation is reflected in its permanent disposition for dialogue and equalitarian understanding among all members of the international community, as well as in the fact that the country has one of the lowest ratios of military expenditures in relation to its gross domestic product.

2. Together with other Latin American countries, Brazil has succeeded in consolidating a model relationship of cooperation and integration, at various levels, which it is determined continuously to promote. Through different international arrangements - the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), the Antarctic Treaty, the Zone of Peace and Cooperation of the South Atlantic, the River Plate Basin Treaty, the Amazon Cooperation Treaty - we have contributed to the establishment of a high degree of political confidence in a large area which encompasses Latin America and the Caribbean and Africa. Within this area, external military threats do not constitute a major factor.

3. In the disarmament field, the Brazilian position is based on the perception that the adoption of effective measures for the limitation and elimination of nuclear weapons and other weapons of mass destruction is an essential element for the maintenance of international peace and security. In this sense, the Constitution provides that "all nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress" (article 21, XXIII, a). Brazil has unilaterally renounced the carrying out of any kind of nuclear explosion, even for peaceful purposes. This commitment was solemnly announced by President Fernando Collor in his address to the United Nations General Assembly in 1990 (A/45/PV.4).

4. Brazil recognizes the importance of current efforts to promote the non-proliferation of weapons of mass destruction in all its forms and supports the adoption of effective measures to be observed by the international community on a universal and non-discriminatory basis. It understands that

the adoption of these measures must be closely related to the efforts by the international community towards the general and complete elimination of these weapons, in order not to condone the possession, by some countries, of weapons and weapon systems the acquisition and use of which are condemned by the international community as a whole.

5. Besides being a party to the Antarctic Treaty, and having signed and ratified the Treaty of Tlatelolco, Brazil is also a party to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (1925 Geneva Protocol); the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Partial Test Ban Treaty); the Treaty on Principles Governing the Activities of States in Outer Space (Outer Space Treaty); the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof (Sea-Bed Treaty); the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological Weapons Convention), and the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD Convention). Brazil has also been participating actively in the negotiations on a Chemical Weapons Convention at the Conference on Disarmament. Furthermore, it participates in and strives for the implementation of effective equitable and non-discriminatory disarmament measures, particularly with reference to nuclear weapons and other weapons of mass destruction.

6. Brazil has spared no efforts in order to consolidate Latin America and the Caribbean as a region free from nuclear weapons and other weapons of mass destruction. In this connection, Brazil is implementing the programme established by the Argentinian-Brazilian Declaration on a Common Nuclear Policy, signed at Foz do Iguaçu on 28 November 1990, which is one of the cornerstones of its nuclear policy. In this regard, Brazil and Argentina signed the Agreement on the Uses of Nuclear Energy Exclusively for Peaceful Purposes, on 18 July 1991, under which they commit themselves not to build or acquire explosive nuclear devices. The Agreement establishes the Common System for Accounting and Control of Nuclear Materials (SCCC) and sets up the Argentinian-Brazilian Agency for Accounting and Control of Nuclear Materials (ABACC) for the implementation of joint safeguards. The SCCC Agreement has already entered into force. Then, on 13 December 1991, an agreement for the application of safeguards was signed by Argentina, Brazil, ABACC and the International Atomic Energy Agency (IAEA) (IAEA/GOV/2557). This quadripartite agreement includes, in articles 12 and 89 to 96, mechanisms specifically related to the control of transfers of safeguarded material, which may be exported only if submitted to IAEA safeguards in the importing country.

7. Brazil has actively participated in efforts aimed at the full entry into force of the Tlatelolco Treaty. Together with Argentina and Chile, it has proposed to the States parties technical amendments to the Treaty, one of which consolidates the role of IAEA in carrying out special inspections in nuclear facilities of the countries of the region, in accordance with the safeguards agreements concluded with the Agency.

8. As one of the original signatories, together with Argentina and Chile, of the Joint Declaration on the Complete Prohibition of Chemical and Biological Weapons (Mendoza Declaration), which is opened for accession to all countries of the region, Brazil has further contributed to the strengthening of international security, thus reaffirming the leading role of Latin America in the quest for a world free of nuclear weapons and other weapons of mass destruction. The accession of Uruguay, Paraguay, Bolivia and Ecuador to the Mendoza Declaration bears witness to the relevance of this trilateral initiative.

9. The Brazilian Government is in the process of strengthening its internal legislation concerning the import and export of products and services related to military, nuclear and dual-use items. A draft bill aimed at strengthening the competence of the executive branch of the Government in this field is currently under consideration by the Congress. It aims at complementing the procedures already in place for the regulation of the import and export of military and nuclear items. This draft bill calls for the preparation of import and export lists which will determine which items shall be subject to regulation. The transfer of products and services included in such lists will be subject to the approval of the competent governmental authorities. The draft bill envisages the establishment of an international import certificate (CII) and of a delivery verification certificate (CVE), both of them aimed at regulating the import of products subject to a non-re-export commitment. The draft bill also outlines the administrative and criminal sanctions applicable to violators.

10. The Brazilian Government has furthermore taken additional steps to impart greater transparency to activities related to sensitive technology, such as the decision to establish the Brazilian Agency for Space Activities under civilian control. Within this new, more efficient and modern institutional structure, Brazil will continue to develop its space activities for exclusively peaceful purposes.

B. Specific comments on the subject of the transfer of high technology with military applications in the light of General Assembly resolution 46/38 D

11. Brazil is well aware of the risks involved in the use of high technology products and services with possible application in nuclear weapons and other weapons of mass destruction. It proposes the establishment of transfer control mechanisms that are efficient, universal and transparent. For these mechanisms to be efficient, they must take into account both legitimate security concerns and the legitimate needs of access to high technologies for exclusively peaceful purposes, indispensable for economic development.

12. This concept is the main thrust of the working paper entitled "International transfer of sensitive technologies" (A/CN.10/145), submitted by Argentina and Brazil to Working Group IV during the 1991 substantive session of the Disarmament Commission. The wide range of issues then discussed

reflects the importance and complexity of the elements involved, many of which had never before been discussed in a systematic way in the United Nations.

13. At its 1991 session, Working Group IV of the Commission expressed interest in continuing to work on the subject of the transfer of high technology with military applications bearing in mind the proposal for seeking universally acceptable international norms or guidelines that would regulate such transfer.* Taking note of this interest, the General Assembly recognized, in its resolution 46/38 D, that norms or guidelines for the transfer of high technology with military applications should take into account legitimate requirements for the maintenance of international peace and security, while ensuring that they do not deny access to high technology products, services and know-how for peaceful purposes.

14. According to the method of work of the Disarmament Commission, deliberations on this subject are to be further developed at the 1992 session, with a view to concluding its work with the adoption of the appropriate guidelines or recommendations at the 1993 session. Brazil hopes that working document A/CN.10/145, together with other documents that may be presented, may contribute to focus the discussions of the 1992 session, with a view to ensuring that work proceeds in a more concrete and operational manner.

15. In the context of the Disarmament Commission deliberations on the subject, as reflected in the report of Working Group IV, it was also suggested that, bearing in mind the competence of other relevant bodies, issues for further consideration may include the following:

(a) The relation between existing supplier regimes and the proposal for universal norms;

(b) The issue of wider participation in existing regimes;

(c) The question of the definition of dual-use technologies;

(d) The promotion of transparency of regulations, procedures and transfers;

(e) The scope of international norms;

(f) The nature of monitoring, control and verification aspects of such regimes.

16. The outcome of the deliberations of the Disarmament Commission on this subject could be arranged in a systematic way under the following categories:

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* Official Records of the General Assembly, Forty-sixth Session, Supplement No. 42 (A/46/42), para. 42.

(a) Objective: the drafting of general principles and guidelines on the transfer of high technology products and services with application in nuclear weapons and other weapons of mass destruction.

(b) Parameters:

(i) The maintenance of international peace and security;

(ii) The contribution for the process of arms limitation and disarmament;

(iii) The promotion of unimpeded access for legitimate purposes.

(c) Principles: non-discrimination, transparency, equity, predictability, effectiveness and reciprocity of benefits and obligations.

(d) Scope:

(i) Concrete items to be covered;

(ii) The relationship with existing regimes;

(iii) The role of the United Nations.

(e) Mechanisms:

(i) For transparency of rules and procedures;

(ii) For monitoring, control and verification;

(iii) For unimpeded access to high technologies products and services for legitimate purposes.

(f) Processes: initiatives that could result from the adoption of a substantive document by the Disarmament Commission.

17. As far as the relationship between existing regimes and the adoption of universal norms is concerned, Brazil's position is reflected in document A/CN.10/145, submitted jointly with Argentina. Brazil believes that the adoption of universally negotiated and accepted norms and guidelines would allow for the attainment of the objective defined in General Assembly resolution 46/38 D, in a manner more transparent and equitable than the partial approach currently adopted by existing regimes.

18. The adoption of transparent norms on the transfer of high technology products and services with application in nuclear weapons and other weapons of mass destruction, with a reciprocity of benefits and obligations would ensure their effectiveness and predictability. Rules that are transparent and operationally precise would entail the desired features of being reliable and verifiable.

19. In the field of security, the existing regimes try to respond in an insufficient manner to the need for broader and more effective mechanisms and generate undesirable distortions, as was pointed out in working document A/CN.10/145. The adoption of an open and transparent regime for those transfers would be more effective and strengthen international confidence.

20. Brazil, as other countries, evaluates the convenience of carrying out specific transfers of high technology products and services in the light of its internal norms - the improvement of which is being sought by new draft legislation which has been submitted to the Congress. It is Brazil's understanding, nevertheless, that the establishment of transparent and effective international norms would allow for a more ready flow of legitimate international exchanges in this field, thus positively affecting economic growth and social development.

21. The harmonization of each country's internal procedures with internationally negotiated guidelines would contribute to the strengthening of confidence and would ensure that legitimate requirements for the maintenance of peace and security and for access to high technology products and services for peaceful purposes are met.

22. The issue of wider participation in existing regimes is another question that was raised by the Disarmament Commission. It relates to the conditions for participating in such regimes, as well as those that could serve as a basis for a possible broadening of participation in those regimes. Both aspects, a broader participation in the existing regimes and the improvement of norms and guidelines regulating the issue, should be considered in the light of the interest of the international community to prevent the proliferation, in all its forms, of nuclear weapons and other weapons of mass destruction, and to permit unimpeded access to and the constant flow of legitimate trade in high technology products and services.

23. Owing to its complexity, the subject also gives rise to questions relating to the scope of the norms and guidelines to be adopted, such as the establishment of common principles for all technological areas or the consideration of specific rules for each different technological area, as is the case with existing regimes. These two perspectives do not seem, however, to be mutually exclusive. General principles could constitute the framework for the negotiation of specific norms and guidelines for different technological areas.

24. The international community is gaining increasing experience in questions related to the monitoring, control and verification of arms limitation and disarmament measures. Examples of such experience can be found, inter alia, in the various initiatives in the field of verification within the United Nations, in particular the principles on verification developed by the Disarmament Commission. Those principles may serve as a basis for the present deliberations of the Commission. In this connection, the role of the United Nations is evident, in the light of the experience and legitimacy of the Organization.

25. Some proposals have been put forward on the issue of monitoring. Their implications on the legitimate transfer of high technology products and services should be considered by the Disarmament Commission. In working document A/CN.10/145, Brazil and Argentina suggested that the United Nations should maintain an inventory, as complete and updated as possible, of restrictions affecting such transfers. The establishment of a system of registry for transfers which may have applications for nuclear weapons and other weapons of mass destruction has also been suggested.

26. In this connection, the discussion in Working Group IV of the Disarmament Commission on the promotion of international cooperation in the use of scientific and technological achievements for the verification of arms limitation and disarmament measures is also relevant. Broadening access to the scientific and technological basis of verification mechanisms could contribute to strengthening the reliability of monitoring, control and verification systems.

27. Brazil reaffirms its hope that the deliberations of Working Group IV of the Disarmament Commission, at its 1992 session, will be of a more operational nature, so as to permit a successful conclusion of its work and the adoption in 1993 of principles and guidelines that would contribute to international peace and security and facilitate unimpeded access to technologies for the promotion of economic and social development.

CANADA

[Original: English]

[13 April 1992]

Canadian export control law and policy with respect to exports of high technology with military applications

Legislation:

1. Canada controls the export of goods and technology under the Export and Import Permits Act and its Regulations. One of the Regulations is the Export Control List (ECL) which comprises eight Groups of controlled goods and technologies, as follows:

Group 1 COCOM Industrial List

Group 2 COCOM Munitions List

Group 3 COCOM Atomic Energy List

Group 4 Nuclear Non-Proliferation List (Zangger and Nuclear Suppliers Group and Non-Proliferation Treaty commitments)

Group 5 Miscellaneous

Group 6 Missile Technology Control Regime List (MTCR)

Group 7 Chemical Weapons Non-Proliferation List (Australia Group)

Group 8 Chemicals for the production of illicit drugs (Chemical Action Task Force)

2. The first three Groups represent Canada's commitment to the Coordinating Committee for Multilateral Strategic Export Controls (COCOM). Group 2, Munitions, includes those goods and technologies which are specially designed for military use. Groups 1 and 3, Industrial List and Atomic Energy List, respectively, include high technology, dual-use civilian goods which could be used in a military application. Groups 4, 6 and 7 reflect Canada's commitments to various non-proliferation regimes and many of the goods identified in these Groups could also have direct or indirect military applications. In addition, each of the eight Groups, with the exception of Groups 5 and 8, have their own unique controls over technologies or technical data in material form.

3. All the goods and technologies noted in any of the ECL Groups require export permits (licences) before such goods or technologies may be exported to any destination. With the exception of Groups 3 and 4, and some items in Group 5, the permit requirements are waived if the goods or technologies are destined for the United States.

4. Failure to be in possession of export permits when required is an offence under the Export and Import Permits Act, the Criminal Code and the Customs Act. Penalties, including fines and/or incarceration, are provided in the legislation for violations.

Policies:

5. Overriding Canadian policy closely controls the export of Group 2, Munitions, to the following country groups:

(a) To countries which represent a threat to Canada or its allies;

(b) To countries involved in or under imminent threat of hostilities;

(c) To countries subject to United Nations Security Council sanctions;

(d) To countries with persistent records of serious violations of the human rights of their citizens.

6. In addition, Canadian Government policy is designed closely to control a wide range of dual-use goods, especially those contained in Groups 4, 6 and 7, the so-called non-proliferation Groups. Only after Canadian commitments have

been satisfied with respect to the Non-Proliferation Treaty, the Missile Technology Control Regime and the Australia Group would consideration be given for approving proposed exports.

7. Generally speaking, it is Canadian policy to obtain appropriate end-use assurances issued by the Government of the importing company before approving the export of controlled goods or technologies, and especially for those items that have a direct military application. Such assurances would include the name of the importer, the end-user and the specific end-use of the goods. On some occasions, the certification may also include a statement that the goods will be used solely for civilian purposes and will not be used, directly or indirectly, by the military or paramilitary forces. In all cases in which end-use assurances are required, the importer must certify that the goods will not be diverted en route or re-exported upon arrival.

8. Proposed exports of high technology items with military applications to countries other than those which are close defence allies, are generally subject to a thorough interdepartmental review to ensure that there are no overriding security or foreign policy concerns that would suggest that the export should not be approved.

FRANCE

[Original: French]

[15 May 1992]

The French arms transfer control system

1. Since the decree-law of 18 April 1939, the French legal regime for the control of arms exports has been based on a general principle of prohibition, exceptions to which are granted by the governmental authorities on a case-by-case basis. It is accompanied by a regime of severe penalties (fines, terms of imprisonment) on individuals or companies contravening the provisions of the regulations.

2. Authorization of industrial companies to engage in trade, the authorization to conduct business dealings and the export of military equipment are, without exception, the subject of prior governmental decisions. The list of equipment in question is established by interministerial order, the most recent of which, dated 20 November 1991, is attached to the present reply as annex I.* It will shortly be supplemented in the biological sphere. In this respect, it should be noted that in 1972 France incorporated in its legislation the provisions of the Convention on the

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* Annex I is available for reference in the Office for Disarmament Affairs of the Secretariat.

Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction of 10 April 1972, to which it acceded on 27 September 1984.

3. Unlike the majority of national systems in force in the world, the control exercised by the French Government over arms exports is conducted in three distinct phases.

(a) Control prior to the placing of an order

4. Each phase in an exporter's business dealings - seeking a potential market, submitting a tender and negotiating a contract, signature of contract or acceptance of an order - is dependent on obtaining a prior authorization from the Prime Minister, which is issued in the light of the findings of a special interministerial commission (the Interministerial Commission for the Study of Military Equipment Exports (CIEEMG)).

5. This Commission, established by decree of 16 July 1955, comprises representatives of the Ministry of Foreign Affairs, the Ministry of Defence and the Ministry of Finance. Its decisions are taken in the light of military, diplomatic and economic considerations, periodically reviewed under the authority of the Prime Minister:

(a) Military considerations, for it would not be acceptable for French weapons sold to a country to be able to influence the immediate security of French territory or the security of our armed forces and those of allied countries;

(b) Diplomatic considerations, for the French arms export policy must be consistent with our foreign policy, our international commitments and our analysis of international balances;

(c) Economic considerations, for the sale of military equipment must be compatible with the financial and indeed technological capacity of the purchasing country.

6. In virtually all cases, the prior authorizations that are issued specify as a condition for the conclusion of the contract in question that the purchasing country should undertake not to re-export the equipment without the prior consent of the French Government.

7. In respect of seeking a market and negotiating a contract, prior authorizations are valid for three years, but their duration is limited to only one year for the signature of the contract in order to allow better account to be taken of developments in the purchasing country's situation.

(b) Control prior to delivery of the equipment

8. Despite its exhaustive nature, the control exercised by the French Government over arms exports is not confined to authorizing each of the stages in the business dealings.

9. After the signature of the contract, the equipment ordered cannot leave French territory without the issue by Customs of a specific export permit (the military equipment export permit) issued once the Ministries of Defence, Foreign Affairs and Finance have given their consent. To obtain this permit, the exporter must submit a copy of his contract to the Ministry of Defence in order for the latter to verify its conformity with the prior authorization, as well as the undertaking of the purchasing country not to re-export the equipment.

10. This permit, which may apply to all equipment covered under the contract even if the deliveries are spread over time, is valid for one year. Upon the expiry of this period, a company which has not exported all the equipment is required to make a new application to extend the validity of the permit.

11. It should be noted that the effectiveness of the French system lies also in the fact that the granting of authorization prior to the signature of a contract does not preclude the possibility of the French Government, at its discretion, refusing to issue the corresponding export permit allowing physical exit from the territory, or to extend its validity.

12. Likewise, the Government requires no justification under law for withdrawing prior authorizations or export permits that have been issued.

(c) Verification of delivery of equipment

13. Apart from the customs formalities which apply to all exports of equipment, clearance of military equipment through customs gives rise to the issuance of a specific administrative document, the customs clearance notice. This notice is forwarded to the control authorities in the Ministry of Defence.

14. To these arrangements is added, in the nuclear field, a notice to exporters concerning products whose export is not permitted (substances, equipment and large nuclear units). By these notices, the most recent of which, published in the Official Journal of the French Republic of 12 August 1988, is attached as annex II,* exporters are informed that, with a view to the implementation of the policy designed to prevent the proliferation of nuclear weapons, tighter controls are exercised on the export of the products, substances and equipment specified in the lists attached to the notice.

15. Lastly, another notice to importers and exporters, also periodically revised, deals with products and technologies subject to specific controls in the light of the end destination (the most recent version of this notice was published in the Official Journal of the French Republic (administrative documents) of 24 January 1992).

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* Annex II is available for reference in the Office for Disarmament Affairs.

GERMANY

[Original: English]

[27 April 1992]

Arrangements, laws and regulations of the Federal Republic of Germany related to international transfers of high technology with military applications

1. Germany has long since had regulations to control the export of advanced-technology goods for military purposes. Under these regulations, both the goods themselves and their manufacturing documents, as well as certain technologies, require an export licence. Passing on knowledge relating to the production of goods which can be used for military purposes has also been subject to export controls for quite some time now.

2. Since the beginning of 1989, Germany has been introducing a comprehensive reform of the whole legal and administrative system of export controls. The aim of the reform is to prevent the production of dangerous armaments, particularly of weapons of mass destruction, from being advanced in areas of tension in the world through uncontrolled exports of sensitive goods.

3. Another focus of the reform is stricter registration of exports involving technologies with a wide range of uses which could be employed for military purposes. Since 1989, the Federal Government has continually been adding to its Export Control List and has made technologies, technical data and processes, as well as goods which require an export licence subject to an extended national authorization requirement. The control now also includes passing on sensitive data-processing programs (software).

4. Services rendered by Germany abroad in connection with armaments are also subject to official authorization, especially activities by German experts abroad related to missile projects, components designed specifically for that purpose and particularly developed computer programs. Authorization must be obtained for all missiles designed to carry weapons.

5. Furthermore, all exports of manufacturing documents are subject to control in so far as they relate to goods intended for the construction or operation of a facility which produces, modernizes or services weapons, munitions or armaments.

6. Moreover, the legislation to prevent illegal transfer of technology was considerably improved by an act adopted by the Bundestag on 14 February 1992 reforming the Foreign Trade and Payments Law.

7. As a deterrence, existing penalties have been considerably increased. In particularly serious cases of crime involving foreign trade, the courts can impose a sentence of up to 15 years in prison. A special criminal offence

with the same range of penalties was created for violations of United Nations embargo resolutions. The high minimum penalty of two years means that a suspended sentence is not possible.

8. In order to ensure more effective protection from illegal exports, the supervisory authorities have also been granted powers, on the strength of a court order and under parliamentary supervision, to monitor correspondence, post and telephone communications as soon as there is prima facie evidence that illegal exports are being planned. In addition, the Federal Minister of Economics has been authorized to intervene in individual cases of particular urgency in the field of foreign trade and payments through an administrative ordinance even if there is no general export authorization requirement. This is to ensure swift action in cases where the export of sensitive goods is imminent.

9. The Federal Government has long been working within the framework of international bodies towards the harmonization of controls relating to technology exports and intends to intensify further its international cooperation.

10. In particular, the Federal Government supports international efforts aiming at strengthening the safeguards of the International Atomic Energy Agency (IAEA). It has also actively contributed to the new "Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material and Related Technology" adopted by the Nuclear Suppliers Group on 3 April 1992.

11. The Federal Foreign Minister has played a decisive role in the initiative for creation of an International Science and Technology Centre. The Centre will provide incentives for the peaceful application of expertise in the field of weapons of mass destruction and thus contribute to preventing the further proliferation of these weapons.

12. Regarding this initiative and other proposals concerning possible international and United Nations action against proliferation of weapons of mass destruction and of related technology, the conversation of the Secretary-General with Federal Foreign Minister Genscher on 23 January 1992 and the letter dated 24 January 1992 from the Permanent Representative of Germany to the United Nations addressed to the Secretary-General may be recalled.

LITHUANIA

[Original: English]

[14 April 1992]

The Lithuanian armed forces are equipped exclusively with simple light weapons since their task is limited to the defence of borders, airspace and territorial waters. Industrial research and development of electronic and

other advanced equipment has ceased almost entirely in Lithuania owing to financial constraints resulting from a difficult transition from a centrally planned to a market economy. Thus, during the past two years, since the Declaration of Restoration of Lithuania's Independence, the issue of international transfers of high technology with military applications has not arisen in Lithuania.

NORWAY

[Original: English]

[21 April 1992]

Norway's export control on dual-use goods and technology

1. The legal basis of Norway's export control on dual-use items and technology is the Act of 18 December 1987 relating to the control of the export of strategic goods, services and technology, etc. (ref. annex I)* and the Regulations of 10 January 1989 relating to the implementation of control of the export of strategic goods, services and technology, laid down by the Ministry of Foreign Affairs (ref. annex II).*

2. The Ministry of Foreign Affairs is responsible for the licensing of exports of such items. The control does not only cover goods, but also technology and services. Thus, the permission of the Ministry of Foreign Affairs is required to export technology, all forms of technical information and production rights.

3. Norway joined the Coordinating Committee for Multilateral Strategic Export Controls (COCOM) when it was established in 1950 and controls the exports of certain high-technology, dual-use items and technology in accordance with decisions taken in this multilateral forum.

4. With a view to preventing further proliferation of chemical weapons, and on the basis of Norway's participation in the Australia Group, Norway has implemented export control on an erga omnes basis of a total of 54 chemical weapons precursors and dual-use chemical manufacturing facilities and equipment, and related technology.

5. Agents and equipment which can be used to produce biological weapons are not subject to ordinary export control. However, the export of such agents and equipment for military purposes to areas where there is a war or the threat of war or to countries where there is a civil war requires an export licence.

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* Annexes I and II are available for reference in the Office for Disarmament Affairs.

6. Norway adhered to the Missile Technology Control Regime (MTCR) on 1 January 1991. Norway has initiated export control in accordance with the Regime's Guidelines for sensitive missile-relevant transfers and its Equipment and Technology Annex.

7. Exports from Norway of nuclear-related dual-use equipment, material and related technology will be subject to control as from 1 January 1993 in accordance with the agreement reached at the meeting of the adherents to the Nuclear Suppliers Group held at Warsaw from 31 March to 3 April 1992.

8. Norway's participation in the Missile Technology Control Regime and the Nuclear Suppliers Group is a part of her support for international efforts aimed at halting the proliferation of nuclear weapons.

PANAMA

[Original: Spanish]

[4 May 1992]

1. In this respect, I wish to inform you that the Government of the Republic of Panama, as a member State of the Conference on Disarmament and the Organization for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, recognizes the efforts made by these organizations in the process of strengthening the system of peace, security and cooperation.

2. In this connection the Government of Panama, in reorganizing the Public Forces under Decree No. 38 of 10 February 1990, has taken important steps to halt the proliferation of military armaments. Particular mention should be made of the Government's decision to limit the equipment of the National Police to the level necessary to maintain the security of the community and of citizens.

3. The Police Academy has been provided with only one piece of high-technology equipment for the purpose of facilitating the training of new agents; it has a shooting simulator to train agents in the use of regulation sidearms, and a computer which scores their performance.

SPAIN

[Original: Spanish]

[3 April 1992]

The transfer of technology with military applications has been regulated in Spain by the following legislative provisions:*

- Royal Decree 2701/1985 regulating the export trade, article 4 of which refers to the export of defence materials and the re-export of dual-use technology;

- Royal Decree 488/1988, which regulates foreign trade in defence materials and dual-use products and technologies and establishes the Interministerial Regulatory Board on Foreign Trade in Defence Materials and Dual-Use Products and Technologies, as well as the Special Register of Exporters of Defence Materials and Dual-Use Products and Technologies. This Royal Decree provides for an administrative export permit for operations involving the export and re-export of defence materials and dual-use products and technologies;

- Order of the Ministry of the Economy and Housing of 28 May 1990 which, inter alia, establishes a list of products excluded from the open licence for the export of dual-use products and technologies.

The texts of these legislative provisions are attached.

The Government of Spain has also approved the submission to the Cortes (Parliament) of a bill on offences and violations involving the export of defence materials or dual-use materials (including technologies designed or modified for military use or which may be applied to such use).

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]

[20 May 1992]

1. The transfer from the United Kingdom of documents of software containing information relating to the design, production or use of goods, or to technologies or processes with military applications is subject to control

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* The documents are available for reference in the Office for Disarmament Affairs.

under the provisions of the Export of Goods (Control) Order.* This Order, which is revised regularly, also imposes controls on the export of all materials, equipment, components, assemblies and finished products whose export from the United Kingdom requires an export licence.

2. These export controls do not apply to technology which is already in the public domain, or to basic scientific research, or to that technology which is the minimum necessary for the installation, operation, maintenance (checking) and repair of products whose export has been authorized. But technology required for the development, production or use of a product under embargo remains itself under embargo even when applicable to another, unembargoed product.

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* The Export of Good (Control) Order 1991 is available for reference in the Office for Disarmament Affairs.

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REVIEW OF THE IMPLEMENTATION OF THE RECOMMENDATIONS AND DECISIONS ADOPTED BY THE GENERAL ASSEMBLY AT ITS TENTH SPECIAL SESSION: TRANSFER OF HIGH TECHNOLOGY WITH MILITARY APPLICATIONS

Report of the Secretary-General

Addendum

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AUSTRALIA

[Original: English]

[11 August 1992]

1. The Government of Australia has always maintained a principled approach to defence and related exports and strict controls apply. This is also true in relation to the export of high technology with military applications.

2. In recent times various efforts have been made to halt the proliferation of conventional weapons and weapons of mass destruction. However, the spread of weapons technology facilitating the production of such weapon systems could undermine these efforts and thus attempts must be made to introduce controls. Given the dual-use nature of some military technology introducing controls may prove to be a difficult task, although this should not stop countries from taking the necessary preventive measures.

3. As was agreed at the United Nations Disarmament Commission earlier this year, there is a need for the establishment of norms and guidelines for the transfer of high technology with military applications to ensure international peace and security. Simultaneously, this process must not deny access to high technology products, services and knowledge for peaceful purposes. The Government of Australia believes that its regulations meet these criteria.

4. Australia participates in various groups and is party to agreements that aim to control the spread of technology likely to be used for military purposes, including: the Australia Group; the Nuclear Suppliers Group; the Zangger Committee; the Missile Technology Control Regime; and the Nuclear Non-Proliferation Treaty. The Government of Australia supports efforts to expand the membership and strengthen adherence to the guidelines as set forth by these groups.

5. The "Australian Controls on the Export of Defence and Related Goods, Guidelines for Exporters" (March 1992) provide for the regulation of high technology with military applications, refer in particular to the definition of goods under categories part 1A, 1B, and 2. The "Australian Controls on the Export of Technology with Civil and Military Applications, a Guide for Exporters and Importers" (October 1991) provides all relevant details of Australian controls on dual-use technology.

6. Under Australian controls, dual-use technology is defined as technology, goods and services that, although developed for commercial purposes, can be used either as military components or for the development or production of military systems. In 1989 Australian Regulation 13E was amended to control the export of dual-use technology to all destinations.

7. Australia's dual-use technology controls distinguish four generic groups of goods:

(a) The Industrial List.

(b) The Missile List, comprising items whose transfer the Missile Technology Control Regime aims to limit since they could be used for nuclear weapons delivery systems. After joining the Regime in 1990, exports of Australian missile-related goods and technology have been prohibited to those end-users having missile programmes or aspirations contrary to agreed non-proliferation guidelines.

(c) The Nuclear List.

(d) The Chemical List, comprising industrial goods and technology that have applications in the development, production and testing of chemical warfare agents.

8. Comprehensive details regarding dual-use technology export control procedures are contained in annex A of appendix B (available in the Secretariat for reference).

RUSSIAN FEDERATION

[Original: Russian]

[24 August 1992]

1. The task of ensuring the advancement and irreversibility of the process of achieving radical reductions in armaments is certainly of cardinal importance, as are the closely related tasks of strengthening the rules concerning non-proliferation of weapons of mass destruction and strengthening strategic stability in these times of transition from confrontation between East and West to cooperation and partnership. These positive processes must also be fostered as fully as possible by appropriate use of the achievements of scientific and technological progress, for the development of scientific and technological potential is today a most important element in a country's national security.

2. In themselves, science and technology are neutral: developments in these fields can have both positive and negative effects on international security. In the new conditions of a mutually dependent world they must become a powerful factor in strengthening security and trust and increasing openness and transparency, and they must facilitate the implementation of disarmament measures, for example by ensuring that such measures can be verified and by generally promoting the improvement of people's lives on earth.

3. Russia is in favour of a broad and mutually advantageous exchange of the achievements of human genius in science and technology and of access to the achievements of progressive scientific thinking in the whole world community.

4. We are convinced that today, when a new world order is being consolidated on this planet, the ideological confrontation and conflict between East and West, North and South must be replaced by a single information and science and technology space, the benefits of which would be used by all States of the world on a non-discriminatory basis. Here the technically more advanced countries could render the necessary assistance to the States just setting out on the path of intensive development of science and technology - both on commercial terms and free of charge - under the auspices of the world community or on a bilateral basis.

5. In scientific and technological exchanges special attention must of course be given to preventing as effectively as possible the dissemination of technology and knowledge which could be used to violate the non-proliferation rules and circumvent the restrictions on the export of dual-use items. However, States do of course have a right to cooperation in the development and exchange of technologies for peaceful uses.

6. The task of preventing the use of new technologies for the upgrading of weaponry remains an important and immediate one. Russia intends actively to endeavour to ensure that the efforts of the countries Members of the United Nations are directed towards the prevention of a qualitative arms race and promote broader access by all States to the achievements of scientific and technological progress for peaceful purposes.

7. It is essential to ensure the absolute prevention of the creation of new types and systems of weapons, especially weapons with great strike power, and to shut off new avenues of the arms race.

8. Given the radical reduction in the arsenals of strategic offensive weapons of the biggest nuclear Powers, what is now most needed is to restrain to the maximum possible degree the creation of new generations of strategic offensive and defensive weapons and to prevent an arms race in outer space, with a ban on all forms and types of anti-satellite weapons. It is necessary to prevent the use for weapons purposes of laser, kinetic and electromagnetic devices.

9. Support is still being given as well to the idea of placing a ban on the creation of non-nuclear armaments based on new physical principles whose strike capacities approach those of nuclear or other means of mass destruction.

10. There must be a general prohibition on any further use of scientific and technological achievements for the development and manufacture of new generations and types of weapons of mass destruction, as well as types and systems of conventional weapons.

11. We welcomed the adoption by the General Assembly of resolution 45/60 entitled "Scientific and technological developments and their impact on international security", in which the Secretary-General is requested to submit to the General Assembly at its forty-seventh session a framework for technology assessment guided, inter alia, by the criteria suggested in his report on the subject.

12. The conclusions and recommendations contained in the United Nations study on the question of charting potential uses of resources allocated to military activities for civilian endeavours indicate that ecological problems and environmental protection might become an extremely promising area for use of the product of such conversion.

13. Science and technology must play their part in the successful solution of the problem of the destruction or decommissioning of surplus armaments and military technologies, in the utilization of this military matériel for civilian purposes, in the elimination or reorientation of certain military branches of industry and in conversion. The leaders of Russia attach special importance to the problem of the safe use of the nuclear material released as a result of disarmament and are ready to engage in broadly based international cooperation in this field.

14. In step with the progress in the solution of practical disarmament problems, the questions of verification and control of the agreements concluded in this sphere are growing many times more complicated. The leading role of scientific and technological means of monitoring the observance of disarmament agreements is beyond dispute. Why not organize under the auspices of the United Nations a high-level international seminar on contemporary technological means of monitoring and their possible application in disarmament agreements? The results of such a seminar would be of practical interest to the many countries in the world which are cutting back their military potential.

15. The development of international links and the removal of artificial Berlin walls between countries and peoples are also producing an actual expansion of flows of scientific and technological information and technology and exchanges of scientific developments across State frontiers. One item now on the agenda is the development of universally acceptable international norms or guidelines to regulate the transfer of high technology with military applications.

16. It is important to continue the policy of building mutual understanding between the suppliers and recipients of modern technology and to seek to make universal the systems of export controls on the supply of dual-use material, equipment and technology which could potentially be used to create weapons of mass destruction and sophisticated means of delivering them, with a view to excluding their military application and at the same time encouraging the use of such technology for peaceful purposes. For its part, Russia intends to introduce such a national system of export controls as early as possible.

17. One of the most important aspects of the problem of preventing the proliferation of new types of weapons and the technologies for their manufacture is to establish a system to prevent the proliferation of missiles and missile technology by creating an effective global monitoring structure in this field.

18. In our view, the problems of non-proliferation, including the limitation of the spread of weapons technology and know-how have a human dimension as well.

19. We are aware of the concern of the world community about a possible "drain", during the radical cut-back in military programmes in Russia, of some of our experts who have been working on the development of dangerous types of armaments, and we are instituting measures to prevent such a dangerous turn of events. The best solution would obviously be to engage such experts in international conversion projects in which other States are also interested. We expect that substantial assistance will be given in this area by the International Science and Technology Centre which is being set up in Russia, for it will coordinate research in such areas as pure and applied physics, alternative sources of energy, including thermonuclear synthesis, safety of nuclear power stations, rehabilitation of the environment polluted by nuclear activities, safe disposal of industrial wastes, etc. We hope that the near future will also see the implementation of other projects of international support for Russia's scientific community, which is determinedly breaking free from the wardship of the military industrial complex.

20. Russia made a constructive contribution to the development by the five permanent members of the Security Council of guidelines on non-proliferation and the arms trade, the implementation of which will also help to limit the spread through the world of dangerous technologies which can be used to create weapons.

21. Russia occupies one of the leading places in the world in terms of level of scientific and technological development, it attaches special importance to the development of international links in this area, especially with regard to the further strengthening of international security and the establishment of mutually advantageous cooperation at the global level, and it intends to make a vigorous contribution to the efforts of the world community to establish a single scientific and technological space as part of the new world order.

THAILAND

[Original: English]

[22 September 1992]

Royal Thai Army

1. Currently, there is no standard for categorizing high-technology materials. The American standard is the only measurement used to discriminate nuclear warheads and intermediate range missiles (200-400 miles), including fire-control radar with highly penetrating radio waves. At present, there are no arms of that category in the Royal Thai Army's organizational equipment except the AN/TPQ-36 radar, whose effective range goes beyond the border. But it is likely to be used as defensive equipment given the Royal Thai Armed Forces' defensive strategy.

2. Most of the Army's equipment is obtained from the United States through Foreign Military Sales, that is, on a government-to-government basis.

Royal Thai Navy

3. Resolution 46/38 D, entitled "The transfer of high technology with military applications", refers only to the transfer of military high technology, but not to its sale. However, any deals in high technology equipment do comply with resolution 46/36 L, entitled "Transparency in armaments", which established the Register of Conventional Arms.

4. The Royal Thai Navy considers high technology in this sense a production technology as regards ballistic missiles with nuclear, biological and chemical warheads, radar absorption paints and production machinery for high-precision components of equipment. At present, the Navy obtains none of those items.

5. Concerning safeguards in this matter (particularly as regards transfer to third countries), the Royal Thai Armed Forces have a memorandum of understanding or agreement, together with the Arms Export Control Act, which the Royal Thai Navy must adhere to.

Royal Thai Air Force

6. The Royal Thai Air Force currently has no specific directives on transfer of military high technology. Directives will be produced on a case-by-case basis or in the form of an annex to the relevant agreement.

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REVIEW OF THE IMPLEMENTATION OF THE
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OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-seventh year

Letter dated 11 August 1992 from the Chargé d'affaires a.i.
of the Permanent Mission of Albania to the United Nations
addressed to the Secretary-General

The Republic of Albania and the Albanian people follow with attention and great concern the development of the situation in former Yugoslavia. They fully share in the efforts that the European States and the United Nations are making to attain a peaceful and democratic solution to the crisis in ex-Yugoslavia. We have officially declared and reaffirm once again our objection to any resort to force and the conviction that this can never be a means of solving the Yugoslav crisis. At the same time, we support any effort for dialogue among all the parties, without exception, regarding the future of Yugoslav peoples, the right to self-determination, the observation of human rights based on the principles embodied in the Helsinki Final Act, the Paris Charter for a New Europe, other documents of the Conference on Security and Cooperation in Europe (CSCE) and Charter of the United Nations.

We are very concerned about the evident differences in assessments of the justifications for the demands and aspirations of various peoples of former Yugoslavia, as seen in the media and in certain diplomatic actions. Albanians have stressed the necessity that all sides in the conflict enjoy the right to the same treatment. It is difficult to explain support for full autonomy or even full independence for the Serbs outside Serbia, while the Albanians, numerically the third people in former Yugoslavia, are denied these very same rights. Any continuation of the policy that is currently regarded as

* A/47/150.

unbalanced and unjust will further intensify the conflict, not bring it under control.

Albania holds the view that the participation of the elected representatives of the people of Kosova in the London Conference on "Yugoslavia" is indispensable for a success of the Conference and for the restoration of peace and stability to the region.

Legally, it cannot be disputed that the exclusion of the elected representatives from Kosova from the Conference would violate the fundamental rights of the people of Kosova. Politically, the exclusion of the elected representatives of Kosova would negate the aspiration of the Conference to establish an overall framework for the resolution of the interconnected disputes and conflicts within and around the former Socialist Federal Republic of Yugoslavia. To exclude Kosova from the Conference and to exclude the situation within Kosova from the agenda of the Conference would mean that the seeds of further conflict will not be eradicated, but would instead be sown more widely. Why must Kosova participation in the London Conference on "Yugoslavia" be realized?

Kosova, a territorially defined entity inhabited by a population composed of about 90 per cent of ethnic Albanians, has been an autonomous entity since ancient times. Its independent status is recorded as far back as 297 B.C. Even during the period of the domination by the Ottoman Empire, Kosova formed an autonomous vilayet. After the dissolution of the Ottoman Empire, Kosova was artificially divorced from Albania, but its status as an autonomous entity entitled to exercise the right to self-determination was soon recognized. This recognition came in 1943, when the people of Kosova participated heroically in the struggle against Nazi tyranny.

Kosova's autonomy was confirmed in article 4 of the declaration of Jajce of November 1943 and in the proclamations adopted by the Anti-fascist National Liberation Conference held at Bujan at the end of that year. The Conference, which was attended by the representatives from Kosova, Serbia and Montenegro and by observers from the Anglo-American Military Mission at Kosova, issued proclamations which emphasized the need for all parties to cooperate in bringing about the defeat of Nazi tyranny. At the same time, it was stated and accepted that Kosova's participation in that struggle was also aimed at the achievement of self-determination, including the possibility of secession.

After the conclusion of the war, the authoritarian Tito government appeared to refuse to fulfil this aspiration of self-determination. Kosova was integrated into the Yugoslav Federation. It is noteworthy, however, that even the Tito government found it necessary to force the representatives of Kosova into professing that the joining of the Federation had been undertaken in pursuit of the right to self-determination of the people of Kosova. Even the Tito government thus recognized Kosova as a self-determination entity.

The special status of Kosova soon re-emerged within the structure of the Yugoslav Federation, where it once more retained its autonomous status. This

status was last revised when the 1974 Constitution of the Socialist Federal Republic of Yugoslavia was adopted. Under the 1974 constitution autonomy is very wide indeed, granting significant authority of sovereign decision-making to the constitutional organs of Kosova.

Although the constitution refers to Kosova as a constituent part of Serbia, it is clear that Kosova is nevertheless a nation entitled to exercise the right of self-determination. This is evidenced in the following constitutional provision, which states that "the working people and the nations and nationalities shall exercise their sovereign rights in the Socialist Republics, and in the Socialist Autonomous Provinces, and shall exercise these rights in the Socialist Federal Republics of Yugoslavia when in their common interest it is so specified by the present Constitution" [Constitution of the Socialist Federal Republic of Yugoslavia, introductory part, section I, English in Blaustein & Flanz, Constitutions of the Countries of the World, instalment "Yugoslavia", at 29 f]. In other words, sovereignty resides in the constituent units of the Federation and is only devolved upon federal or other structures in narrow areas defined in the constitution. And the autonomous territories are specifically included in the category of constituent units within which sovereignty resides. This fact is restated in article 4, which defines the autonomous territories as units of self-management in which "the working people, nations and nationalities realize their sovereign rights".

The right to self-determination of the people of the autonomous territories and the consensual nature of the association of republics and autonomous territories in the Federation is explicitly confirmed in article 1 of the constitution and reflected in the introductory provisions which explicitly confirm the right of "every nation to self-determination, including the right to secession" [idem].

This striking affirmation of the status of Kosova as a self-determination unit of a federal nature is confirmed throughout the substantive parts of the constitution. Autonomy extends to legislation, the executive and the judiciary. Autonomous territories are even entitled to establish "national banks" [article 262], to levy taxes [article 265], to "agree" to treaties negotiated by the federal authorities which are of specific concern to them [article 271], to establish relations with agencies and organizations of other States and with international agencies and organizations [idem and amendment XXXVI], etc. In addition to these extensive rights, which are, in fact, in excess of rights enjoyed by many constituent units of other federations, the autonomous territories are represented equally within the central organs of the federation, including the Federal Presidency [article 321].

The autonomous status of a federal nature of Kosova was an expression of the right to self-determination enjoyed by the population of Kosova. Such a fundamental right of a people is inalienable; it could not be unilaterally abolished by the organs of the Socialist Federal Republic of Yugoslavia and, a fortiori, by the authorities of Serbia. Nevertheless, from around 1981 onwards, Serbia increasingly attempted to interfere with the administration of

autonomous Kosova. By 1988, Serbia started to amend its own constitution, with a view to suppressing the autonomy of Kosova. Although Kosova is nominally referred to as a constituent part of Serbia, the Federal Constitution makes it clear that Kosova's constitutional order existed in parallel to the Serbian constitutional order, rather than under it.

Even if it were possible constitutionally to alter the status of republics and autonomous territories, the Serbian actions were clearly in violation of the Constitution of the Socialist Federal Republic of Yugoslavia - a constitution which Serbia asserts it has been fighting vigorously to preserve, even to the point of invading the territories of Croatia and Slovenia. According to that constitution, a change in the Federal Constitution could only be effected by the organs of the Federation, in particular the Assembly of the Socialist Federal Republic of Yugoslavia [article 382]. In addition to the consent of the federal organs, such changes would also require the agreement of the assemblies of the other republics and autonomous territories, including, of course, the republic or autonomous territory concerned [article 398].

An attempt to undermine the Federal Constitution by adopting conflicting constitutional provisions within a constituent republic is legally irrelevant. This is established explicitly in article 206 of the Constitution of the Socialist Federal Republic of Yugoslavia. The Serb attempts to abolish the autonomous status of Kosova therefore amounts to a legal nullity. This is evidenced, for example, by the fact that Kosova retained its place on the Federal Presidency, even after the purported legal changes had taken place (although the individual holding that position was exchanged).

Although the Serb attempts to undermine Kosova's status as an autonomous constituent unit of a federal nature were legally irrelevant, the Belgrade authorities have taken violent action in an attempt to enforce Serb rule in Kosova. Under an unlawfully proclaimed state of emergency, fundamental human rights have been grossly and persistently violated. Serb authorities have attempted to abolish the Kosova Assembly and replace the Kosova Presidency.

Kosova attempted to respond to these pressures by applying the procedures provided for in the Federal Constitution. It appealed to the Federal Constitutional Court for protection. However, the Court was unable to function and, even at the time of the final dissolution of the Socialist Federal Republic of Yugoslavia, had still not given a judgement. Faced with this desperate situation, on 7 September 1990, the Kosova Assembly adopted a new Constitution, based on the principles of self-determination, equality and sovereignty. On 26 September 1991, when the dissolution of the Socialist Federal Republic of Yugoslavia was imminent, the people of Kosova, in whom sovereignty resides according to the Constitution of the Socialist Federal Republic of Yugoslavia, held a referendum on independence in the exercise of the right to self-determination. All segments of the population, including members of ethnic minorities, were eligible to participate in the referendum. Of those eligible to vote, 87.01 per cent actually participated in the ballot; and 99.87 per cent of those voting opted for independence.

An election was held on 24 May this year under the terms of the Constitution, resulting in the establishment of the representative body submitting this memorandum on behalf of the people of Kosova. There were 853,432 registered voters, of whom 762,257 participated in the vote. The elections were open to all parties, including those representing ethnic minorities (under the electoral system of Kosova, ethnic minorities are guaranteed representation according to the percentage of population and proportional distribution).

Like the referendum, the election was internationally mounted. Despite Serb attempts to interfere with the polling, the elections have been described as generally fair. The Democratic League of Kosova achieved 66 per cent of the seats in parliament (96 deputies) and thus emerged as the strongest party. Dr. Ibrahim Rugova of that party was elected President, with the support of most other parties, including the Muslim Party of Democratic Action and the Turkish People's Party.

The elected representatives of Kosova have rejected the purported incorporation of Kosova into the rump "Federal Republic of Yugoslavia".

Kosova is an entity which fulfils the criteria for self-determination established even by the Badinter Arbitration Commission operating under the authority of the European Community (EC) peace conference. It is a territorially defined unit of significant size. Its population of 2 million is roughly equal in number to the population of some of the other former Yugoslav republics. That population is composed of an overwhelming majority of ethnically distinct people who have administered themselves autonomously for a considerable period.

The peoples of Kosova, in the exercise of the inalienable right to self-determination, have asserted their separate legal identity - an identity which already existed within the structure of the Socialist Federal Republic of Yugoslavia. The application of the right to self-determination in this context became necessary when Serbia overturned the constitutional balance within the Socialist Federal Republic of Yugoslavia, which provided for equal status of Kosova within the Federation. In fact, Serbia has been attempting to turn Kosova from a self-determination entity of a federal nature into a mere administrative district, trampling upon the rights of the people of Kosova in so doing.

The violent suppression of the right to self-determination of a people amounts to a grave violation of international law, possibly even to an international crime. The people of Kosova are legally and morally entitled to speak up, be heard and make their plight known.

The people of Kosova, through their representatives, have embraced all the conditions for recognition established by the EC and its member States. They have:

(a) Committed themselves to a broad range of human, minority and group rights, as outlined in chapter II of the Carrington draft Agreement on "Yugoslavia" and in the EPC statement on recognition of former Yugoslav entities of 16 December 1991;

(b) Expressed their desire and eagerness to contribute actively and constructively to the success of further peace talks;

(c) Confirmed their adherence to the principle of the inviolability of borders and stated that they have no territorial claims whatever towards neighbouring States and that they do not intend to engage in hostile propaganda activities against neighbouring States, including the use of a denomination which implies territorial claims;

(d) Confirmed their desire to accede to all appropriate international conventions of universal applicability, in particular the Non-Proliferation Treaty and other relevant instruments relating to the maintenance of international peace and security and disarmament;

(e) Agreed to settle by agreement, including, where appropriate, by recourse to arbitration, all questions concerning State succession and regional disputes.

Even if other States and entities are not at present willing formally to recognize the new status of Kosova, it cannot be denied that, as a former autonomous unit of a federal nature within the Socialist Federal Republic of Yugoslavia, its situation is intimately connected with the overall settlement of the "Yugoslav" crisis. A failure to invite the participation of the elected representatives of Kosova could only lead to even stronger feelings of abandonment and despair within Kosova. Continued and unrestrained violence in the suppression of the rights of the people of Kosova may well lead to an explosion of the situation involving the region as a whole. Such a result cannot be prevented by ignoring the problem.

I would very much appreciate it if you would have the text of the present letter circulated as an official document of the General Assembly, under item 69 of the provisional agenda, and of the Security Council.

(Signed) Sokol NECAJ
Chargé d'affaires a.i.